Supreme Court, U. S.
FILED
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MICHAEL RODAK, JR., CLERK

IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1976

No. 76-1022

M. M. MILES, JACK R. WOOD, and JACQUELINE S. WOOD,
Petitioners

V.

THE HON. J. FOY GUIN, U. S. DISTRICT JUDGE and BANK OF HEFLIN, a corporation, *Respondents*

RESPONSE TO

AMICUS CURIAE BRIEF OF ATTORNEY GENERAL OF STATE OF ALABAMA

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REPLY TO AMICUS CURIAE BRIEF OF ATTORNEY GENERAL OF STATE OF ALABAMA

Just as a brief response to the Amicus Curiae brief, we call the Court's attention to the following:

The District Court's jurisdiction is based on two premises:

(1) Jurisdiction to protect or to effectuate its judgment under 28 U.S.C. 2283, and

(2) Jurisdiction to redress claimed deprivations of rights, privileges, etc. under 28 U.S.C. 1343 (3).

Two of the cases cited by the Attourney General of Alabama clearly demonstrate the jurisdiction of and the right of the U. S. District Court to hear this case.

The original complaint in this case claims deprivation of due process and equal rights under the Constitution of the United States. These rights are protected substantively under 42 U.S.C. 1983. The case of *Mitchum vs. Foster* (1972) 407 U.S. 225, 32 Led 2d 705, reversed a District Court for holding that it did not have jurisdiction in such cases, and specifically held that District

Courts have jurisdiction in such cases under 28 U.S.C. 1343 (3). It further held that 42 U.S.C. 1983 is an exception to the anti-injunction provisions of 28 U.S.C. 2283.

The case of *Lynch vs. Household Finance Corporation,* (1972) 405 U. S. 538, 31 Led 2d 424, holds that jurisdiction under 28 U.S.C. 1343 (3) applies to property rights as well as personal rights.

These two cases clearly demonstrate why a writ of certiorari should not be granted in this case. These cases just reinforce the basic power the District Court has to protect or effectuate its judgments under 28 U.S.C. 2283, which is also applicable in this case.

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CERTIFICATE OF SERVICE

I, Gordon F. Bailey, Jr., a member of the Bar of the Supreme Court of the United States, certify that I have served upon the Honorable J. Foy Guin, Jr., United States District Judge, United States Courthouse and Federal Building, Birmingham, Alabama 35203, three copies, upon James D. Pruett, P. O. Box 29, Gadsden, Alabama, 35902, three copies, upon the Solicitor General of the United States, Department of Justice, Washington, D. C., 20530, three copies, and upon Julian L. McPhillips, Jr. Assistant Attorney General, State of Alabama, Montgomery, Alabama, 36130 of the foregoing Response to the Brief of the State of Alabama, as amicus curiae, by depositing the same in the United States Post Office, with first class postage prepaid, addressed to them as shown above, on this 1st day of March, 1977.

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